

Senate Study Bill 3248

SENATE FILE _____
BY (PROPOSED COMMITTEE ON BUSINESS
AND LABOR RELATIONS BILL BY
CO=CHAIRPERSON DEARDEN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the prevention of serious bodily injury and
2 exposure to toxic materials in the workplace, and providing
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6414SK 81
6 jm/sh/8

PAG LIN

1 1 Section 1. NEW SECTION. 84C.1 DEFINITIONS.
1 2 As used in this chapter:
1 3 1. "Agent of an employer" or "agent of the employer" means
1 4 a manager, corporate officer, or a member of the board of
1 5 directors of an employer.
1 6 2. "Employee" means a person employed by an employer.
1 7 3. "Employer" means a person engaged in a business who has
1 8 one or more employees and also includes the state of Iowa, its
1 9 various departments and agencies, and any political
1 10 subdivision of the state.
1 11 4. "Executive director" means the executive director of
1 12 the division of labor services of the department of workforce
1 13 development.
1 14 5. "Serious bodily injury" means bodily injury which
1 15 involves a substantial risk of death, unconsciousness, extreme
1 16 physical pain, protracted and obvious disfigurement, or
1 17 protracted loss or impairment of the function of a bodily
1 18 member, organ, or mental faculty.
1 19 Sec. 2. NEW SECTION. 84C.2 HEALTH AND SAFETY OF
1 20 EMPLOYEES.
1 21 An employer shall establish and maintain conditions of work
1 22 which are reasonably safe and healthful for employees, and
1 23 free from recognized hazards that cause or are likely to cause
1 24 serious bodily injury.
1 25 Sec. 3. NEW SECTION. 84C.3 INTERFERENCE WITH HEALTH AND
1 26 SAFETY OF EMPLOYEES.
1 27 An employer or an agent of an employer shall not interfere
1 28 with the use of any method or process adopted for the
1 29 protection of an employee or any other person lawfully in the
1 30 place of employment, or fail to follow orders necessary to
1 31 protect the life, health, and safety of employees and any
1 32 other persons lawfully in the place of employment.
1 33 Sec. 4. NEW SECTION. 84C.4 RULES RELATING TO HEALTH AND
1 34 SAFETY OF EMPLOYEES.
1 35 1. Any rule adopted under this chapter shall prescribe the
2 1 use of labels or other appropriate forms of warnings to ensure
2 2 that employees are apprised of all hazards. When appropriate,
2 3 the rules shall also prescribe suitable equipment, controls,
2 4 or technological procedures to be used in connection with
2 5 hazards and shall provide for the monitoring or measuring of
2 6 an employee's exposure to such hazards. In addition, when
2 7 appropriate, the rules shall prescribe the frequency of
2 8 medical examinations necessary that shall be made available to
2 9 an employee exposed to hazards in order to effectively
2 10 determine the health of the employee.
2 11 2. Notwithstanding any other law to the contrary, and upon
2 12 the request of the executive director or the executive
2 13 director's designee, any results of medical examinations
2 14 performed under subsection 1 shall be made available to the
2 15 executive director or the executive director's designee. Any

2 16 medical records received pursuant to this section shall be a
2 17 confidential record within the department of workforce
2 18 development.

2 19 3. Any rule set by the executive director relating to
2 20 hazards that are toxic materials or harmful physical agents
2 21 shall adequately prevent, to the extent feasible and based
2 22 upon the best information available, that no employee will
2 23 suffer material impairment or loss of health or functional
2 24 capacity due to the regular exposure of such a hazard during
2 25 the employee's working life. The development of the rule
2 26 shall be based upon research, demonstrations, experiments, and
2 27 any other information available that is deemed appropriate
2 28 under the circumstances. When practicable, the rule shall
2 29 contain an objective criteria and the performance desired.

2 30 4. Any rule set by the executive director shall require
2 31 employers to maintain accurate records of an employee's
2 32 exposure to potentially toxic material or harmful physical
2 33 agents which are required to be monitored or measured by the
2 34 rules. The rules shall permit an employee or a representative
2 35 of the employee to observe any monitoring or measuring of the
3 1 hazards and the employee or a representative of the employee
3 2 shall have access to the records detailing the monitoring or
3 3 measuring of the hazards. Under the rules, each employer or
3 4 agent of the employer shall notify any employee who is being
3 5 constantly exposed to toxic materials or harmful physical
3 6 agents in concentrations or at levels exceeding those
3 7 prescribed by federal occupational safety and health
3 8 administration standards that corrective action is being taken
3 9 to limit the employee's exposure at concentrations or levels
3 10 that are at or below those prescribed by the federal
3 11 occupational safety and health administration standards.

3 12 Sec. 5. NEW SECTION. 84C.5 IMMINENT DANGER IN THE
3 13 WORKPLACE.

3 14 1. If the executive director determines that an imminent
3 15 danger exists in any workplace which could reasonably cause
3 16 serious bodily injury to a person, the executive director,
3 17 through the attorney general, may petition the district court
3 18 of the county in which the workplace is located for
3 19 appropriate relief under this chapter.

3 20 2. Upon the filing of a petition pursuant to subsection 1,
3 21 and after a hearing, the court may order that necessary steps
3 22 be taken to avoid, correct, or remove the imminent danger and
3 23 prohibit the employment or presence of any individual in
3 24 locations or under conditions where such imminent danger
3 25 exists, except individuals whose presence is necessary to
3 26 avoid, correct, or remove the imminent danger, or to maintain
3 27 the capacity of a continuous process operation, or to resume
3 28 normal operations without the complete cessation of
3 29 operations.

3 30 3. When an inspector identifies conditions or practices
3 31 that could reasonably cause serious bodily injury, the
3 32 inspector shall notify the affected employer and affected
3 33 employees that a condition or practice exists that could
3 34 reasonably cause serious injury.

3 35 4. If the executive director fails to seek relief under
4 1 this section, any employee who may be injured by reason of
4 2 such failure may bring an action against the executive
4 3 director to compel the executive director to seek appropriate
4 4 relief under this chapter.

4 5 Sec. 6. NEW SECTION. 84C.6 PENALTIES.

4 6 1. An employer or an agent of an employer who causes
4 7 serious bodily injury to an employee as a result of a reckless
4 8 violation of this chapter commits an aggravated misdemeanor.

4 9 2. An employer or an agent of an employer who causes
4 10 serious bodily injury to an employee as a result of an
4 11 intentional violation of this chapter commits an aggravated
4 12 misdemeanor.

4 13 3. An employer or an agent of an employer who causes the
4 14 death of an employee as a result of a reckless violation of
4 15 this chapter commits a class "D" felony.

4 16 4. An employer or an agent of an employer who causes the
4 17 death of an employee as a result of an intentional violation
4 18 of this chapter commits a class "C" felony.

4 19 Sec. 7. NEW SECTION. 84C.7 STATUTORY CONSTRUCTION.

4 20 This chapter shall not be construed to supersede any
4 21 workers' compensation or occupational disease law, or any
4 22 other statutory right, duty, or liability.

4 23 Sec. 8. NEW SECTION. 84C.8 RULEMAKING AUTHORITY.

4 24 The executive director shall adopt rules pursuant to
4 25 chapter 17A to implement this chapter.

4 26 EXPLANATION

4 27 This bill relates to the prevention of serious bodily
4 28 injury and exposure to toxic materials at the workplace.
4 29 The bill provides that the executive director of the
4 30 division of labor services of the department of workforce
4 31 development shall adopt rules relating to the use of labels or
4 32 other appropriate forms of warnings to ensure that employees
4 33 are apprised of all hazards at their place of employment. The
4 34 rules shall also prescribe suitable equipment and
4 35 technological procedures to be used in connection with hazards
5 1 at the workplace and require medical examinations of employees
5 2 exposed to hazards at work.

5 3 The bill provides that the executive director shall have
5 4 access to medical examinations performed pursuant to the bill,
5 5 notwithstanding any other law to the contrary. The bill
5 6 provides that any medical examinations retrieved by the
5 7 executive director are to be a confidential record with the
5 8 department of workforce development.

5 9 The bill requires rules be established by the executive
5 10 director relating to exposure of toxic materials in the
5 11 workplace. The bill provides that to the extent feasible and
5 12 based upon the latest information, the rules shall adequately
5 13 prevent loss of health or functional capacity of any employee
5 14 regularly exposed to toxic materials at the workplace. The
5 15 bill provides that the development of the rule shall be based
5 16 upon research, demonstrations, and other information available
5 17 that is deemed appropriate under the circumstances.

5 18 The bill also requires the executive director to adopt
5 19 rules requiring any employer to maintain accurate records of
5 20 employees' exposure to toxic materials and to permit an
5 21 employee or a representative of the employee access to such
5 22 records. Any rule adopted under the bill also requires the
5 23 employer to notify any employee being exposed to a toxic
5 24 material that exceeds the occupational safety and health
5 25 standards that corrective action is being taken to limit the
5 26 employee's exposure to the toxic material.

5 27 The bill provides that if the labor commissioner determines
5 28 that an imminent danger exists in any workplace which could
5 29 reasonably cause serious bodily injury to a person, the
5 30 executive director, through the attorney general, may petition
5 31 the district court of the county in which the workplace is
5 32 located for appropriate relief.

5 33 Under the bill, the court, after a hearing, may order that
5 34 necessary steps be taken to avoid, correct, or remove the
5 35 imminent danger and prohibit the employment or presence of any
6 1 individual in locations or under conditions where such
6 2 imminent danger exists, except individuals whose presence is
6 3 necessary to avoid, correct, or remove the imminent danger, or
6 4 to maintain the capacity of a continuous process operation, or
6 5 to resume normal operations without the complete cessation of
6 6 operations.

6 7 Under the bill, an employer or an agent of an employer who
6 8 causes serious bodily injury to an employee as a result of a
6 9 reckless violation of the bill commits an aggravated
6 10 misdemeanor. An employer or an agent of an employer who
6 11 causes serious bodily injury to an employee as a result of an
6 12 intentional violation of the bill also commits an aggravated
6 13 misdemeanor.

6 14 The bill provides that an employer or an agent of an
6 15 employer who causes the death of an employee as a result of a
6 16 reckless violation of the bill commits an a class "D" felony.
6 17 An employer or an agent of an employer who causes the death of
6 18 an employee as a result of an intentional violation of the
6 19 bill commits a class "C" felony.

6 20 LSB 6414SK 81

6 21 jm:nh/sh/8